

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DENNIS FLORER,

Plaintiff,

v.

CHERYL BALES-JOHNSON, *et al.*,

Defendants.

No. C06-5561 RJB/KLS

ORDER DENYING MOTION FOR
RECONSIDERATION

On February 18, 2010, the court entered an Order Denying in Part and Granting in Part Plaintiff's Motion to Compel Discovery Request No. 10. Dkt. 276. As to request for production Nos. 7 through 9 contained in Discovery Request No. 10, the court denied Plaintiff's request for the production of "premade dinner meals that are listed for dinner" on the 2004, 2006 and 2008 kosher menus based on Defendant Jackson's statement that the Kosher dinners listed on the 2004, 2006 and 2008 are no longer available. *Id.*, p. 6. Plaintiff filed a motion for reconsideration (Dkt. 280) of this ruling based on certain statements made by Gary Friedman in a declaration filed by Defendants with their response to Plaintiff's motion for summary judgment. Dkt. 262-4, pp. 59-64.

The court directed Defendant Jackson to file a response to Plaintiff's motion for reconsideration. Dkt. 288. Defendant Jackson filed his response on March 25, 2010. Dkt. 291.

ORDER - 1

DISCUSSION

Motions for reconsideration are disfavored and will ordinarily be denied in the “absence of a showing of manifest error in the prior ruling or a showing of new facts or legal authority which could not have been brought to [the Court’s] attention earlier with reasonable diligence.” Local Rule CR 7(h)(1).

In requests for production numbers 7, 8, and 9 (contained in Discovery Request No. 10)), Mr. Florer requested the production of the “premade dinner meals that are listed for dinner” on the 2004, 2006, and 2008 kosher menus. Dkt. 291, Exh. 1, Attach. A. Defendant Jackson responded to the requests as follows:

This request is not reasonably calculated to lead to the discovery of admissible evidence. Additionally, this request is irrelevant and compound. Moreover, the dinner meals from the 2004 [, 2006, and 2008] kosher menu are no longer in the Defendant’s care, control, or custody.

Id. The court issued its order on the motion to compel based on Defendant Jackson’s response that the meals are no longer available to Defendant Jackson. Dkt. 276, p. 6.

In his motion for reconsideration, Mr. Florer asserts that a declaration filed by Gary Friedman provided by Defendants in their cross-motion for summary judgment (Dkt. 262), contains new facts relevant to the court’s ruling. In that declaration, Gary Friedman, the chairman of the Jewish Prisoner Services International, stated that the “2004 and 2006 kosher diet menus utilized frozen kosher meals . . . I periodically serve and consume them in my home to this day.... I also eat the same shelf stable meals served on the 2008 kosher menu.” Dkt. 280, p. 6. Thus, Plaintiff concludes that Defendant Jackson “lied ... because the 2004, 2006, and 2008 menu kosher dinners listed on the 2004, 2006, and 2008 are duplicative. Dkt. 280, p. 2.

Defendant Jackson reaffirms in his declaration that he does not have any kosher meals from 2004, 2006 and 2008 in his care, custody or control and cannot personally verify if any of

1 the meals currently being served by the Department are the same as were served in 2004, 2006,
2 and 2008. Dkt. 291-2, p. 2. Defendant Jackson's response to the motion to compel concurred
3 with his original response that the 2004, 2006, and 2008 prepackaged kosher meals are no longer
4 in his care, custody, or control. Mr. Friedman's declaration does not present new evidence with
5 regard to Defendant Jackson's answer to this discovery.

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7 Plaintiff has presented no new evidence that Defendant Jackson's response is not
8 accurate. As Plaintiff has identified no error in the court's order, nor presented any new facts or
9 legal authority, reconsideration is inappropriate.

10 It is, therefore, **ORDERED**:

11 (1) Plaintiff's motion for reconsideration (Dkt. 280) is **DENIED**.

12 (2) The Clerk is directed to send copies of this Order to plaintiff and to counsel for
13 Defendants.
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15 **DATED** this 2nd day of April, 2010.

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18 Karen L. Strombom
19 United States Magistrate Judge
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